

April 2, 1999

HUMAN RESOURCES MANAGEMENT LETTER NO. 05-99-4

**FLYER**

**April 20, 1999**

**TO:** Chief, Human Resources Management Office

**SUBJ:** Corrected Copy of Human Resources Management Letter No. 05-99-4, External Recruitment & Examining Issues, dated April 2, 1999

Attached is a corrected copy of HRML # 05-99-4 and advise you of the items being corrected. Please locate, and recycle or otherwise discard copies of the original HRML.

The corrections which have been made are listed in italics:

- On page 3, paragraph 5b(2), 3<sup>rd</sup> sentence, the reference has been amended to 5 CFR 330.707.
- On page 4, paragraph 5d(1) now reads,  
**"(1) Title 5 Part-time Regular Hours**  
VA Title 5 tenure group I or II employees appointed or converted to part-time on or after April 8, 1979, must have a regular duty schedule of from 16 to 32 hours per week (*or from 1 to 15 hours per week with facility director approval*) and may exceed that limit for only up to 4 pay periods per calendar year. **(5 CFR 340.202; MP-5 Part I, Chapter 340, paragraphs 4b & 4h)"**
- On page 4, paragraph 5d(1)(a)(ii) now reads,  
" (ii) Title 5 tenure group I or II employees on a mixed tour of duty (yearly recurring periods of full-time, part-time or intermittent service) who work part-time for 4 or less pay periods in a calendar year; or"

Questions about this flyer or the corrected HRML should be directed to Elodie Murray, Customer Advisory and Consulting Group (051A1), on e-mail to [elodie.murray@mail.va.gov](mailto:elodie.murray@mail.va.gov) .

Customer Advisory and Consulting Group (051)  
Office of Human Resources Management

April 2, 1999

HUMAN RESOURCES MANAGEMENT LETTER NO. 05-99-4

**DEPARTMENT OF VETERANS AFFAIRS  
DEPUTY ASSISTANT SECRETARY FOR HUMAN RESOURCES MANAGEMENT  
WASHINGTON DC 20420**

**April 2, 1999** (corrected copy)

HUMAN RESOURCES MANAGEMENT LETTER NO. 05-99-4

**EXTERNAL RECRUITMENT & EXAMINING ISSUES**

**1. Purpose:** This Human Resources Management Letter (HRML) provides guidance related to a number of external recruitment and examining issues of recent concern and interest.

**2. Background:** Among the key factors shaping the current external recruitment and examining area are: the 1996 initiation of VA's Career Transition Assistance Plan (CTAP) and Interagency Career Transition Assistance Plan (ICTAP); the Office of Personnel Management's (OPM's) 1996 change to providing examining services on a reimbursable basis; and the related Department-level delegated examining agreement signed by VA and OPM that same year. External recruitment and examining were among the areas covered by OPM in its 1997 oversight review of the Department of Veterans Affairs' compliance with both the spirit and intent of the two Merit System Principles quoted in paragraph 3. This HRML addresses issues raised in OPM's oversight review and other items of recent relevance to external recruitment and examining functions.

**3. First Two Merit System Principles in 5 USC 2301(b):**

"(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights."

**4. References, Research Resources and Training:** To ensure correct application of laws and regulations within the spirit and intent of the Merit System Principles and to avoid all Prohibited Personnel Practices (**5 USC 2302**), Human Resources Management staffers need up-to-date skills and references. In this post-Federal Personnel Manual period, HRM staffers need ready access to Title 5 of both the U.S. Code and the Code of Federal Regulations (CFR). Because both are subject to change at any time, on-line access is ideal to supplement hard copy versions. Both OPM's internet home page and

VA's intranet home page contain further resources to assist in research needs. For veterans employment issues, e.g., OPM's **VetGuide** and **VetsInfo Guide** are extensive repositories of helpful specifics. On-line capability also assists when best practice or other HRM research needs occur. In recognition that HRM on-line access is limited or nil at some VA sites, e-mail transmission to the HRM Officers and VHA National HRM Specialists groups, as well as FORUM transmissions to the G.HRMOFFICIAL-CO/HRM and G.HRMSPECIALISTS groups, are used to disseminate helpful information whenever feasible. Finally, training -- both formal courses and informal on-the-job development -- needs increased emphasis to equip newer and even seasoned HRM staffers to cope with their varied responsibilities in the ever-changing HRM field.

## **5. Specific Guidance by Topic:**

**a. Consideration of Preference Eligibles and Other Veterans.** The new provisions contained in Public Law 105-339, the "Veterans Employment Opportunities Act of 1998" of October 31, 1998, further highlight the need identified in OPM's oversight review that VA HRM staffers ensure that veteran preference is properly awarded and applied in the recruitment, referral and selection processes. Strict adherence to the provisions in 5 U.S. Code and 5 CFR on veteran preference and veterans employment will avoid unintended errors. The previously cited **VetGuide** and **VetsInfo Guide** are valuable supplementary resources. As a result of PL 105-339:

(1) OPM has established 5 CFR 335.106 as an interim regulation. This regulation allows preference eligibles and veterans who were honorably separated after at least 3 years of military service to apply for any Title 5 competitive service position lasting over 120 days when its merit promotion announcement is open to applicants from outside the agency. For VA jobs, this covers any merit promotion announcement open to applicants who are outside the entire Department of Veterans Affairs. Such announcements must include the following statement: "Veteran preference eligibles or veterans who have been separated from the armed forces under honorable conditions after 3 years or more of continuous active service may apply." Since there is no VA-wide requirement that such applicants be rated and ranked, that determination is made locally just as it is for Veterans Readjustment Appointment (VRA) eligibles. Also, as with VRA eligibles, veteran preference is to be applied within this group of eligibles. (**Federal Register Volume 63, Number 232, page 66705, dated December 3, 1998**)

(2) OPM has established an interim excepted Schedule B authority -- 5 CFR 213.3202(n), which allows appointment of a preference eligible or one of the specified veterans to such a vacancy when the individual has no other appointment eligibility. As there is no provision for conversion to the competitive service, an individual so appointed remains in the excepted service unless he/she enters the competitive service via another authority. While on this Schedule B appointment, the person may be reassigned, promoted or demoted to another position within VA, but would remain on this excepted appointment. These appointees may not apply for a merit promotion announcement

which is open only to VA employees. **(Same Federal Register reference; OPM Questions and Answers of November 10, 1998)**

(3) Violation of veteran preference rights became a newly specified prohibited personnel practice under **5 USC 2302(b)(11)(A) and (B)**.

(4) Further administrative and compensatory remedies became available for confirmed veteran preference rights violations, and the Department of Labor, the Merit Systems Protection Board, the Office of Special Counsel, and U.S. District Courts assumed new or expanded roles in such complaints. **(5 USC 3330a-c)**

**b. USAJOBS Vacancy Announcement Posting Requirements.**

(1) To meet VA's ICTAP obligations, as well as the PL 105-339 requirements cited above, all Title 5 competitive service vacancies lasting over 120 days must be posted on OPM's USAJOBS system when applicants from outside VA are accepted. This includes jobs being filled under outside the register procedures and most direct appointment authorities. **[5 CFR 330.102(a) and (b); 5 CFR 330.705(b)]**

(2) An electronic file of the complete announcement for such a vacancy must be provided to the OPM USAJOBS system. OPM's oversight review cited some VA announcements as lacking adequate information on items such as veteran preference, VRA eligibility, the ICTAP program, specialized experience and the area of consideration. In addition, HRM staffers must adhere to the regulation **5 CFR 330.707**, which specifies a number of items which these vacancy announcements must include. Other related references are **5 USC 3327 and 3330; and 5 CFR 330.706, 333.102 and 335.105**.

**c. Temporary and Term Appointments.**

(1) The supervisor must certify the temporary nature of a position when requesting that it be filled on a time-limited basis, and this certification is to be documented on the Standard Form 50-B, Notification of Personnel Action. OPM's oversight review noted that this requirement in **5 CFR 316.401(b)** had not been complied with in numerous instances.

(2) OPM also cited cases in which employees who continued beyond a year on a temporary appointment were not afforded the opportunity to elect the Federal Employee Health Benefits (FEHB) to which they were entitled.

(3) ICTAP regulation **5 CFR 330.705(c)(11)** requires that extension of temporary or term appointments occur only when the original announcement has stated that an extension is possible without further announcement.

(4) Effective December 17, 1998, outside the register procedures may no longer be used to fill term appointments. Thus, use of regular competitive examining procedures

will be more frequently required. **(5 CFR 316.302 as changed in Federal Register Volume 63, Number 221, pages 63781-63784, dated November 17, 1998)**

(5) Also as of December 17, 1998, a local HRM office may request that the appropriate OPM Service Center approve a request to extend a term appointment beyond 4 years. Previously, VA headquarters had to request such an extension from OPM's headquarters as a regulatory variation. **[5 CFR 316.301(b), same Federal Register reference]**

**d. Part-time Appointments.**

**(1) Title 5 Part-time Regular Hours**

VA Title 5 tenure group I or II employees appointed or converted to part-time on or after April 8, 1979, must have a regular duty schedule of from 16 to 32 hours per week (or from 1 to 15 hours per week with facility director approval) and may exceed that limit for only up to 4 pay periods per calendar year. **(5 CFR 340.202; MP-5 Part I, Chapter 340, paragraph 4b & 4h)**

**(a) Exceptions:** This 1-32 hour week limitation does not apply to:

(i) Title 5 tenure group I or II part-time employees continuously on VA rolls since April 7, 1979;

(ii) Title 5 tenure group I or II employees on a mixed tour of duty (yearly recurring periods of full-time, part-time or intermittent service) who work part-time for 4 or less pay periods in a calendar year; or

(iii) Title 5 temporary, term or indefinite part-time employees.

**(2) Title 38, Chapter 74 regular and hybrid part-time personnel schedules** are generally limited to 5/8 of a full-time schedule (or up to 7/8 with the facility director's approval). **[VHA Supplement, MP-5, Part II, Chapter 2, paragraph 2.25c(3)]**

**(3) Title 38, Chapter 78 Veterans Canteen Service (VCS) Part-time Hours**

VCS part-time schedules may range from 1-39 hours per week. **(MP-5, Part I, Chapter 340, paragraph 1)**

**(4) Part-time Employees FEHB Cost-share Proration.**

Part-time employees serving between 16 and 32 hours per week who began a part-time schedule in VA after April 7, 1979, must have their FEHB cost-share pro-rated. **[5 USC 8906(b)(3)]**

**e. Outstanding Scholar Program.** In a July 13, 1998, memorandum to Interagency Advisory Group Personnel Directors, OPM advised that the Outstanding Scholar appointment authority was created by the Luevano Court Decree for supplementary use in correcting under-representation in entry-level GS-5 and GS-7 administrative occupations. The authority was not intended to replace competitive examining as the main vehicle for

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filling these positions. It is in the best interests of the Department and the VA organizations using the Outstanding Scholar Program that these organizations ensure that their actions comply with the Court's intent.

**f. Delegated Examining.**

(1) Vacancy announcements must be posted on the USAJOBS system by VA delegated examining units (DEUs) for a minimum of 5 days, unless there is justification for a shorter period and an OPM Service Center approves a waiver, which would then be documented as part of the announcement file. **[VA-OPM Interagency Agreement Number VA-1, dated June 21, 1996, paragraph 1.E.2.b.(1)(b)]**

(2) DEUs must conduct annual self-assessments and arrange for an annual internal audit by non-DEU staff. This can be done on a reciprocal or reimbursable basis with other VA or Federal DEUs, or via other qualified VA or Federal officials. **(VA-OPM Interagency Agreement No. VA-1, paragraphs 1.E.2.u and v)**

(3) OPM is in the process of establishing a delegated examining web site, initially including the Delegated Examining Operations Handbook and ongoing changes thereto. Other helpful items are to be added as developed.

**6. Questions.** Questions concerning this HRM Letter may be directed to Elodie Murray, Customer Advisory and Consulting Group (051A1), on e-mail to [elodie.murray@mail.va.gov](mailto:elodie.murray@mail.va.gov).

/s/

Ronald E. Cowles

Distribution: RPC 5227  
SS (051A1)